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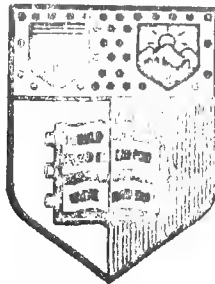
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STATEMENT

AND

APPLICATION TO LORD SALISBURY.

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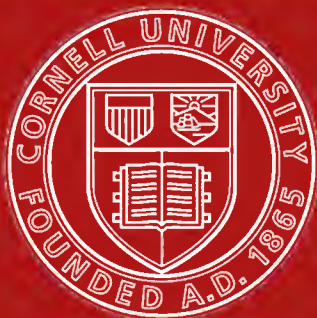


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NORTH BORNEO.

STATEMENT and APPLICATION addressed to the
 MARQUESS OF SALISBURY, K.G., Secretary of State for
 Foreign Affairs, &c., &c., &c., by the Undersigned, on
 behalf of themselves and their associates.

Paragraph	Page
1. Origin of Undertaking	1
2. British character of Association	1
3. Capital	1
4. Negotiations in Borneo	1
5. Three territorial grants of Sultan of Brunei	1
6. Grant by Pangeran Tumongong of Brunei	2
7. Commission for government of granted territory	2
8. Transfer of rights of American Trading Company	3
9. Settlement of claims under American leases	5
10. Title of Association under American leases	5
11. Territorial grant from Sultan of Sooloo	5
12. Special terms in Sooloo grant	5
13. Partly same territory in Brunei and Sooloo grants	6
14. Commission of government from Sultan of Sooloo	6
15. Announcement of grants to natives on coast	6
16. Establishment of stations on coast	6
17. Residents	7
18. Utility of stations	7
19. Administration of justice	7
20. Flag	7
21. Steam communication	7
22. Duties collected	7
23. Spirit and other farms, for revenue	7
24. No monopoly of trade	8
25. Natives to be on equality	8
26. Foreign slaveholding prohibited	8



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Paragraph	Page
27. Gradual abolition of domestic servitude	8
28. Religion, property, and usages	8
29. No ground for complaint against Association	8
30. Proceedings of Association within Treaty	8
31. Claim on behalf of Company	9
32. Foreign Governments	9
33. Bornean authorities	9
34. Effect on Colony of Labuan	9
35. Application on behalf of Company: four points	11
(a) Exercise of extra-territorial jurisdiction over British subjects	11
(b) Protection by Consular and other authorities	12
(c) Control of foreigners	12
(d) Charter	13
36. Advantages of the grant of a charter	13
(a) to Company	13
(b) to Her Majesty's Government	13
37. Terms which Company would accept on grant of Charter	13
38. Accomplishment of objects of Treaty	14
39. General promotion of British interests	14

NORTH BORNEO.

STATEMENT and APPLICATION addressed to the
MARQUESS OF SALISBURY, K.G., Secretary of State for
Foreign Affairs, &c., &c., &c., by the Undersigned, on
behalf of themselves and their associates.

1. In 1877 the Undersigned, Mr. Alfred Dent, a member of the commercial house of Dent Brothers and Co., of London, formed a private Association for the purpose of acquiring territorial grants in North Borneo and developing its resources. Origin of undertaking.

2. The Association so formed is British in its domicile and character. One of those connected with it is, no doubt, not a British subject, namely, the Undersigned, Baron de Overbeck, who is Austrian by nationality. He was, however, for many years intimately connected with the house of Dent and Co. at Hong Kong. His participation in the formation and working of the Association does not affect its nationality. The control of the matter is vested in Mr. Alfred Dent, and the title deeds and other instruments relating to the grants obtained are in his possession. British character of Association.

3. The Association is in a position to raise the capital requisite for the proper and effective conduct of the undertaking. Capital.

4. Shortly after the formation of the Association Baron de Overbeck was sent out to Borneo, as its representative. He there entered into negotiations with the Sultans and Chiefs of Brunei and Sooloo. The result is that he has obtained from them, in favour of the Association, grants of territory, powers, and privileges. Negotiations in Borneo. (Map annexed).

5. The Sultan of Brunei has made three territorial grants, all dated 29 December, 1877: Three territorial grants of Sultan of Brunei.

- (a) By one he grants to the Undersigned conjointly, their heirs, associates, successors, or assigns, certain district described, on the north-west coast, with the islands off the coast. In consideration of this grant, the grantees undertake to pay to the Sultan, his heirs or successors, 6,000 dollars a year. The districts granted are vested in the grantees, for so long as they choose to hold them. But a proviso is annexed, that the Sultan has the right to resume the control and government thereof if the annual sum agreed for is not paid for three successive years.
- (b) The second grant, which is in the like form or to the like effect, relates to districts described, on the north-east coast. The annual payment for these is 2,000 dollars.
- (c) The third grant, which is also in the like form or to the like effect, relates to other districts on the north-west coast, with other islands off the coast. It also comprises the province of Pappar, stated in the grant to belong to the Sultan as his private property. The annual payment for this grant is 4,000 dollars.

Grant by Pangeran
Tumongong of
Brunei.

6. By an instrument dated the same day, the Pangeran Tumongong of Brunei, the Sultan's Minister and heir presumptive or expected successor, has granted to the Undersigned, their heirs, associates, successors, or assigns, the provinces of Kimanis and Benoni, on the north-west coast, with the islands off the coast. These territories are stated in the grant to belong to the grantor as his private property. In consideration of this grant, a payment is to be made to the grantor, his heirs or successors, of 3,000 dollars a year. The districts granted are thereby declared to be vested in the Undersigned, their heirs, associates, successors, or assigns, for so long as they desire to hold them.

Commission for
government of
granted territory.

7. These four grants of territory are accompanied by a fifth instrument emanating from the Sultan of Brunei, and countersigned by the Pangeran Tumongong, at present his sole Minister (the law and custom of Brunei requiring the concurrence in such cases of

the Sultan's Ministers for the time being). This instrument is a Commission of explanation and delegation in relation to the powers and privileges to be exercised and enjoyed in the granted territory. It recites first the effect of the four grants of territory; then that Baron de Overbeck is the chief and only authorized representative of his Company in Borneo; and, therefore, it proceeds to make known that the Sultan has nominated and appointed him supreme ruler of the granted territory, with certain titles of a local character; and it enumerates his powers and rights, including full legislative and executive authority, the rights of property vested in the Sultan over the soil, rights over the productions of the country, and the right of levying customs and other dues and taxes. The enumeration ends with a general reference to all other powers and rights usually exercised by and belonging to sovereign rulers; and these the Sultan declares he thereby delegates to Baron de Overbeck, of his own free will. The Sultan then, by this Commission, calls on all foreign nations with whom he has friendly treaties to acknowledge Baron de Overbeck as himself (the Sultan) in the granted territory, and to respect his authority therein. Finally, the Commission provides, in effect, that in case of the death or retirement from office of Baron de Overbeck his successor in the office of governor-in-chief of the Company's territory shall likewise succeed to his office, title, and powers under the Commission.

8. Before the negotiations above described, arrangements had been under discussion with the representative of an American partnership or company which had some years before acquired, in the manner to be now stated, an interest in the territory so granted to the Undersigned. In August 1865, the then United States Consul at Brunei obtained from the Sultan of Brunei and the Pangeran Tumongong three concessions of territory in North Borneo, including portions of the territory now in question, in consideration of certain annual payments. These concessions were substantially similar to the grants now in question, but in form were leases for ten years renewable. The lessee proceeded to form a partnership called the American Trading Company of Borneo, consisting entirely of Americans, including Mr. Torrey, then in business at Hong Kong, now United States Vice-Consul at Bangkok,

Transfer
of rights of
American Trading
Company.

and a few Chinese merchants at Hong Kong. To this body the lessee transferred his leases. In November 1865, the Sultan issued another instrument, which was countersigned by all his regular Ministers, reciting these leases, and the transfer of them, and the lessee's request that the authority under them might be vested in his partners in the American Trading Company, and then going on to appoint Mr. Torrey to certain offices, with local titles, and to confer on him as president (so styled) of that company large powers and rights of government and property, like those conferred by the Commission of December 1877 above stated (which, in fact, was framed on the precedent of this American instrument). The American partnership or company proceeded to enter into trading operations on the coast; and, with the assistance of Chinese workmen and coolies imported from Hong Kong, they formed a settlement on the Kimanis River, on the north-west coast, about sixty miles from Labuan. But the partnership did not flourish, probably from want of sufficient capital; the settlement broke up, the Chinese colonists returning to China; and no other attempt at the formation of establishments was made, the further operations of the partnership being limited to occasional trading ventures on the coast. They then became desirous to dispose of their leases and powers. Thereupon, Baron de Overbeck entered into an agreement in writing with Mr. Torrey, as president of and sole surviving partner in the American partnership or company (for himself, and on behalf of the partnership and their representatives, and all persons interested therein) for the sale and transfer to Baron de Overbeck, his partners, heirs, executors, administrators, and assigns, of all the rights and interests of the American partnership in the territories and leases, with the exclusive right to use the name or title of the American partnership. In May 1875 Baron de Overbeck went to Brunei with Mr. Torrey. He there communicated with the Sultan and leading Chiefs, in order to ascertain from them directly whether they considered the American leases still in force; and in the course of various interviews, in which the Sultan and Chiefs recognised the validity of the leases, Baron de Overbeck satisfied himself that the leases had been made after friendly negotiations, freely, without pressure or coercion, and for good

pecuniary considerations. When in 1877 Baron de Overbeck returned to Brunei and obtained the grants now in question for the Association, Mr. Torrey again accompanied him, in order to convince the Sultan and Chiefs that the new arrangement was being concluded with the approval of the holders of the American leases.

9. The Sultan of Brunei and Pangeran Tumongong have received from the Undersigned an agreed sum in settlement of all claims on their part under the American leases.

Settlement of
claims under
American leases.

10. The Undersigned claim to be entitled to the benefit of those leases.

Title of Association
under American
leases.

11. In addition to the four grants from the Sultan of Brunei, the Undersigned have obtained from the Sultan of Sooloo one grant of territory, dated 22 January, 1878. Thereby, on behalf of himself, his heirs and successors, and with the consent and advice of the Datoos in council assembled, the Sultan grants, of his own free and sovereign will, to the Undersigned, as representatives of a British company, co-jointly, their heirs, associates, successors, and assigns, in perpetuity, his rights and powers over the territories tributary to him on the mainland, within certain limits therein specified, with the islands off the coast. In consideration of this grant the Undersigned undertake to pay to him, his heirs or successors, 5,000 dollars a-year. The granted territory is thereby vested in the grantees for as long as they desire to hold it. The grant contains a proviso that the rights and privileges conferred thereby shall never be transferred to any other nation, or company of foreign nationality, without the sanction of Her Britannic Majesty's Government first obtained. It also declares that if a dispute arises between the Sultan and the Company it shall be submitted to the British Consul General for Borneo.

Territorial grant
from Sultan of
Sooloo.

12. The two provisions last stated are additional to those contained in the grants from the Sultan of Brunei. They were added on the suggestion of Her Majesty's then Acting Consul-General for

Special terms in
Sooloo grant.

Borneo. The Undersigned refer to this fact as evidence of the willingness they have felt and shown to submit themselves to the control of Her Majesty's Government.

Partly same territory in Brunei and Sooloo grants.

13. The territory granted by the Sultan of Sooloo is part of that granted by the Sultan of Brunei. Such portion of the territory as purports to be granted by both was considered as under the control of the Sultan of Sooloo, but the Sultan of Brunei asserted an ancient claim to the sovereignty of it. An examination of the validity of this claim would have seriously delayed the arrangements; it was therefore thought expedient, on behalf of the Association, to have grants from both the Sultans.

Commission of government from Sultan of Sooloo.

14. The Sultan of Sooloo has also granted a Commission of explanation, and of delegation of powers and rights of government and legislation, and of property, corresponding with the Commission above described as issued by the Sultan of Brunei.

Announcement of grants to natives on coast.

15. In order to convey to the natives information of the grants, each of the two Sultans deputed a high officer to accompany the representative of the Association in a voyage round the coast. At each of the places touched at, those officers assembled the chiefs and people and read to them a solemn proclamation of their Sultan announcing the grants, and exhorting and commanding them to obey the new authorities. This was done at six different places, and everywhere the news was received in a friendly spirit.

Establishment of stations on coast.

16. The Undersigned, therefore, and their Association had satisfied the sovereigns of the country; no coercion or undue pressure had been used; and reasonable pecuniary arrangements had been made. They had also satisfied the local chiefs and native populations on the coast. Moreover, they had come to terms with the only possible rival claimants, namely, the American Company. They therefore proceeded to act under their grants. At three of the principal points on the coast, small permanent settlements were forthwith established, namely, Sandakan, Tampassuk, and Pappar.

17. The gentlemen appointed as Residents to represent the Residents. Association at the three stations respectively are Mr. W. B. Pryer, Mr. W. Pretzman, and Mr. H. L. Leicester, all British subjects.

18. These stations demonstrate the actual occupation of the territory under the grants. The Residents stationed there cultivate friendly relations with the natives, and by personal exploration and otherwise acquire information respecting the country, its people, and its mineral and agricultural resources. They carry on no trade at present on behalf of the Association, or on their own account. Utility of stations.

19. They administer justice to the natives, as far as practicable, and the natives cheerfully submit. Administration of justice.

20. A special flag has been adopted, which is hoisted at each station. Flag.

21. An arrangement has been made for a steamer to keep up communication between the several stations and with Labuan. Steam communication.

22. At Sandakan, where the Sultan of Sooloo collected heavy duties, amounting in some instances to more than twenty per cent., and levied other onerous taxes on the natives, no taxes are at present collected on behalf of the Association, except five per cent. duty on imports. At Tampassuk, where the Sultan of Sooloo's rule was almost nominal, and the people had latterly not paid any taxes, none are at present collected. At Pappar, Kimanis, and Benoni, on which the Brunei Chiefs had a firm hold, and where they exercised oppressive rule, custom dues of five per cent. on imports are collected. The total amount of the duties collected up to the present time is about 500 dollars. Duties collected.

23. The Undersigned contemplate the introduction hereafter of the system of farming out (but for purposes of revenue only) the right to sell spirits, opium, or other commodities, under strict regulations and superintendence, in accordance with the practice of the Spirit and other farms, for revenue.

Colonial Governments of Singapore, Hong Kong, and Labuan, and with that of the government of the territory of Sarawak.

No monopoly of trade.

24. They do not seek to secure any general monopoly of trade for themselves to the exclusion of any other party. Interchange of goods and wares of every description between natives and foreigners will be free to all comers alike, subject to customs dues.

Natives to be on equality.

25. The natives will be placed on a footing of equality with European and other foreign settlers, as regards treatment in courts of justice.

Foreign slave-holding prohibited.

26. No foreigner, whether European, Chinese or other, will be allowed to own slaves of any kind.

Gradual abolition of domestic servitude.

27. The system of domestic servitude now existing among the tribes of the coast and interior will be discouraged, and, as far as possible, abolished by degrees.

Religion, property, and usages.

28. The natives will be protected in respect of religion and property. Cases affecting their domestic institutions, such as marriage and divorce, will be determined with due regard to their laws and customs.

No ground for complaint against Association.

29. Such being the position and intentions of the Association, the Undersigned respectfully represent that no reasonable ground of complaint or objection respecting the establishment of the Association, or the actual or apprehended operations thereof, can exist in any quarter.

Proceedings of Association within Treaty.

30. The Treaty of 1847 between the Queen and the Sultan of Borneo (Brunei) stipulates (Article Three) that British subjects shall be permitted to purchase, rent, or occupy, or in any other legal way to acquire, all kinds of property within the dominions of the Sultan. The same Treaty (Article Ten), after a confirmation by the Sultan of his cession of Labuan to Her Majesty, stipulates that the Sultan shall not make any similar cession, either of an island or

of any settlement on the mainland, in any part of his dominions, to any other nation (that is, other than the British), or to the subjects or citizens thereof, without the consent of Her Majesty. The Undersigned consider that, as between them and Her Majesty's Government, the action of their Association is justified by Article Three, and is not condemned by Article Ten of the Treaty. Moreover, no objection was ever made, as far as the Undersigned are informed, by Her Majesty's Government to the American leases, although obtained without Her Majesty's consent; and the Undersigned derive their title in part by assignment from the American Company.

31. The Undersigned therefore consider that the association of which they have hitherto spoken, and the Company which they desire to substitute for it, are fully entitled, as far as the law of this country is concerned, (1) to hold and to utilize to the fullest extent all lands within the granted territory which, according to the law and usage of Borneo, belonged to or were grantable by either Sultan or by the Pangeran Tumongong; and (2) by delegation from the respective Sultans, to hold and exercise all powers of government within the granted territory.

Claim on behalf
of Company.

32. The Undersigned do not think it necessary to do more than advert to possible complaints or objections of foreign Governments. They consider it the most proper and respectful course for them to leave any representations from any such quarter to be dealt with by Her Majesty's Government, in such manner as may to them seem expedient.

Foreign Govern-
ments.

33. As regards any objections emanating from the authorities of any Bornean territory, the Undersigned prefer to pass by these also. The Undersigned are persuaded that they and their Company will not be injured in the estimation of Her Majesty's Government by an antagonism not founded in reason or public right.

Bornean authori-
ties.

34. With respect to the Colony of Labuan, any fear that it will be injuriously affected, in trade or otherwise, by the establishment on the mainland now contemplated, is, in the opinion of the

Effect on Colony
of Labuan.

Undersigned, groundless. Labuan, which is situated near the entrance of the Brunei River, has its principal trade with the town of Brunei, and the mainland provinces in the immediate neighbourhood, extending north to the Kimanis River and Gaya Bay, and south to the frontier of Sarawak. This trade is carried on by native boats, the imports being mainly Sago, beeswax, gutta-percha, india-rubber, and other natural products, which are bought by the Chinese and other traders at Labuan, and sent on to Singapore for re-sale there. The exports from Labuan consist of British manufactures and other goods, given in exchange for the above-mentioned commodities. There is little trade with the mainland districts, beyond the limits above described. Occasionally smaller vessels of European build, or native craft, arrive from Sarawak, Maludu Bay, or the East Coast, but the value represented by this wider trade must be small. Besides the trade with the near mainland, a British steamer of moderate size runs regularly between Labuan, Sandakan, and the Island of Sooloo, taking out English goods of various descriptions, and bringing back native products, collected by traders, which are transhipped at Labuan to another British steamer, and taken to Singapore for disposal. Two or three times a year, a European vessel of larger size arrives at Labuan from Hong Kong, with an assortment of goods of Chinese manufacture, or rice and salt, taking back usually hard-wood timber, and smaller quantities of native produce suitable to the Chinese market. This constitutes the whole trading activity of Labuan. According to the official return in 1876, the value of the imports was about £126,000, and of the exports £112,996. But the return shows that by far the greater part of these amounts comes from the value of produce and goods imported by one coast steamer, and exported by another, as above described; and these do not confer any special benefit on the Colony, being merely transhipped in its harbour. Now, will any part of the trade of Labuan be diverted by the establishment of the Company's settlements in the northern part of Borneo? First, the trade with Hong Kong will not suffer, as it merely serves to supply the wants of the island of Labuan and the mainland districts in its immediate neighbourhood. Next, the principal trade of Labuan with the mainland will not be interfered

with; (1) because the Company's ports are much more distant than Labuan from Singapore, the great mart for all Eastern produce, and (2) because Labuan is a free port, while in the Company's territory imports will be taxed. Lastly, it is not likely that the transit trade between Sooloo and Singapore through Labuan will be materially interfered with. The import duty alone in the Company's territory would prevent this, even if no other reason existed. Indeed, instead of injury to the trade and prosperity of Labuan the reverse may safely be predicted, as is already shown by facts. Steamships in the employment of the Association made several visits to the harbour of Labuan in the last twelve months. This is not a matter of indifference to the small trading population there. Provisions had to be purchased; coal had to be taken in; a considerable amount of money was spent in various ways. As the operations of the Company extend, the visits of their ships will become more frequent. The amount of coal alone which will be required for steamers, and which could not be supplied as profitably from any other quarter, will probably be sufficient to constitute the Company one of the principal customers of the Labuan coal mines. The Undersigned and their associates have acquired some land and house property in Labuan, believing that a permanent establishment and agency will eventually be necessary there, as much of their business will naturally concentrate in the nearest British colony. This is not without importance to the island, as, with the exception of a few Government officials and some persons connected with the coal mines, there are scarcely any European house or land owners there.

35. Having now laid their statement before the Marquess of Salisbury, the Undersigned come to submit the application which they have to make to Her Majesty's Government, on behalf of the intended Company. It comprises four points:

- (a) The first point relates to the government of such British subjects as may be resident in or resorting to the Company's territory. The Treaty of 1847 (in its Additional Article) confers on Her Majesty extra-territorial jurisdiction over British subjects within the dominions

Application on behalf of Company: four points.

Exercise of extra-territorial jurisdiction over British subjects.

of the Sultan of Brunei. What the Undersigned would ask is this: that Her Majesty's Government will think fit to put into exercise this jurisdiction, so that an effective system of control over British subjects within the Company's territory may be established on a well-understood legal basis. Under the Treaty this extra-territorial jurisdiction may be exercised through Her Majesty's Consul-General or other officer duly appointed for that purpose by Her Majesty. It is therefore not necessary that the officers to exercise the jurisdiction should be Consular officers. The Undersigned would suggest that Her Majesty might be graciously pleased to appoint the Company's Residents as Her officers to exercise it. The Company's Residents will be on the spot; they will not be engaged in trade on their own account; they will necessarily obtain a knowledge of the customs, opinions, and feelings of the natives with whom British subjects will come in contact: they will acquire skill in the languages, an acquaintance with which will be requisite for the proper administration of justice. If Her Majesty's Government should think fit to approve of this suggestion, the Company would undertake to provide the necessary court-houses and establishments, and generally to bear all the expenses connected with the exercise of Her Majesty's extra-territorial jurisdiction, as far and as long as the exercise thereof is intrusted to the Company's officials.

Protection by
Consular and other
authorities.

- (b) The second point of the application of the Undersigned is that the Company may have the countenance and protection of British Consular, Naval, and Colonial authorities acting in Borneo and its neighbourhood.

Control of
foreigners.

- (c) The third point is that the Company may receive the support of Her Majesty's Government with respect to the control of foreigners resident in or resorting to the Company's territory; so that the Company may be

relieved of any difficulties arising with foreign Governments in relation to their respective subjects or citizens.

- (d) The fourth and last point of the application of the Under-
signed is that Her Majesty's Government will be pleased
to grant to the proposed Company a Charter of incorpo-
ration and regulation. Charter.

36. Such a grant would carry with it, as the Undersigned
believe, important advantages, not only for the Company but also
for Her Majesty's Government. Advantages of the
grant of a charter.

- (a) The Company would obtain the benefits of incorporation,
including a recognised status in law, without being
fettered by the provisions of the legislation relating to
Companies constituted merely for purposes of gain,
many of which provisions are inappropriate to the
character and position of the intended Company, as, for
instance, the obligation to attach the term Limited to
the corporate name. To Company.
- (b) On the other hand, Her Majesty's Government could, in
or in connexion with a charter, impose terms and con-
ditions; whereas they would have no direct opportunity
of putting any check on a Company constituted by self-
incorporation under the general legislation. To Her Majesty's
Government.

37. The Undersigned specify the following as the principal
terms to which the Company would be ready to submit themselves
in consideration of the grant of a charter : Terms which Com-
pany would accept
on grant of
charter.

First. That the Company shall be British in character ;

Secondly. That the Company shall not transfer their territory
or powers to any other Company, body, or persons,
without the previous consent of Her Majesty's Govern-
ment ;

Thirdly. That any difference from time to time arising between either of the Sultans, the grantors, and the Company, shall be submitted to the decision of Her Majesty's Government ;

Fourthly. That the Company shall not set up or grant any general monopoly of trade ;

Fifthly. That the appointment by the Company of the chief governor of their territory shall be subject to the approval of Her Majesty's Government ;

Sixthly. That the appointment of the chief judicial officer acting in the Company's territory shall, as long as that officer is appointed by the Company and not directly by the Crown, be subject to the approval of Her Majesty's Government ;

Seventhly. That the Company shall freely afford all facilities requisite for Her Majesty's ships in the harbours of their territory.

Accomplishment of
objects of Treaty.

38. By making such arrangements as these Her Majesty's Government will, as the Undersigned submit, do much to accomplish the desire of the Queen recorded in the preamble of the Treaty of 1847, namely : " to encourage commerce between her Majesty's subjects and the subjects of the independent Princes of the Eastern Seas, and to put an end to piracies which have hitherto obstructed that commerce."

General promotion
of British interests.

39. The natural resources of the granted territory are great. It has splendid harbours, and a good climate for the tropics. It contains extensive forests producing much hard-wood timber, and there are in it, as the Undersigned believe, valuable mineral deposits. It will afford new outlets for British trade, new markets (which are much needed) for British manufactures, and new and rich districts for the cultivation of coffee and tea, and for tropical agriculture

generally. There is every prospect of a good commercial return for the British capital employed. Civilization and order will by degrees be introduced. And the interests of the British Empire will be promoted by the establishment of British occupation in a region offering by its situation and circumstances many strategical and other public advantages.

London, 2 December, 1878.

(Signed)

ALFRED DENT.
OVERBECK.

